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David L. Meier
Director
Regulatory Affairs

201 E. Fourth Street
P. O. Box 2301
Cincinnati, Ohio 45201-2301
Phone: (513) 397-1393
Fax: (513) 241-9115

September 3, 1998

Magalie Roman Salas, Secretary
Federal Communications Commission
1919 M Street, NW, Room 222
Washington DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of:

Telephone Number Portability

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CC Docket No. 95-116
RM 8535

Dear Ms. Salas:

Enclosed are an original and eleven copies plus two additional public copies of Cincinnati Bell Telephone Company's Comments on the Petitions for Reconsideration of the Third Report and Order in the above referenced proceeding. A duplicate original copy of this letter and attached Comments is also provided. Please date stamp the duplicate original as acknowledgment of its receipt and return it. Questions regarding these Comments may be directed to Patricia Rupich at the above address or by telephone on (513) 397-6671.

Sincerely,

David L. Meier

Enclosure

cc: International Transcription Services, Inc

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

COMMENTS OF CINCINNATI BELL TELEPHONE COMPANY

I. INTRODUCTION

¹ **In the Matter of Telephone Number Portability**, CC Docket No. 95-116, **Third Report and Order**, FCC 98-82, released May 12, 1998 (hereinafter referred to as the “LNP Cost Recovery Order”).

II. DISCUSSION

A. Overheads Should be Recoverable in Query Charges

CBT strongly supports the position of those parties who seek reconsideration of the Commission's decision to prohibit the use of general overhead loading factors in calculating LNP costs for the query service.² As Ameritech, Bell Atlantic, and U S West point out, while there may be some rationale for limiting recovery of common cost overheads from the end-user charge, there is no basis for denying recovery of common cost overheads from the query charges.³ Query charges are no different than any other new service and their costs should be developed in the same manner as any other new interstate service. Query services, unlike the end-user charge, will continue beyond the five year recovery period established for the end-user charge. In addition, carriers who choose not to deploy their own database can purchase the service from providers other than the ILECs. As the parties filing on this issue indicate, economic pricing principles require that a share of common overhead costs be included when pricing any new service. The Commission allows the use of general overhead factors in determining the cost of other interstate services.⁴ There is no reason to treat this new service differently.

By not allowing the recovery of common cost overheads in their query charges, the ILECs have effectively been denied the opportunity to recover the total costs of operating their networks. The Commission recognized this in its August 8, 1996 Interconnection Order in CC Docket 96-98, wherein it concluded that, given the existence of common costs, "setting the price of each discrete network element based solely on the

² See, Ameritech, at pp. 4-8 and Attachment A; Bell Atlantic, at p. 4; SBC Communications, at pp. 4-7; US West, at pp. 7-9; and Sprint Local Telephone Companies, at pp. 1-4.

³ Ameritech at p. 4; Bell Atlantic at p. 4; and U S West at p. 8.

⁴ Ameritech at p. 7, SBC at p.5.

forward-looking incremental costs directly attributable to the production of individual elements will not recover the total forward-looking costs of operating the wholesale network.”⁵ Moreover, as noted by SBC and Sprint, excluding some assignment of common costs from the query charge would send incorrect pricing signals to other carriers who will need to decide whether they should purchase the service from an ILEC (or another provider), or provision the service themselves.⁶

In addition to reconsidering whether ILECs can use *general* overhead loading factors to assign a share of common costs to LNP query service, CBT supports Ameritech’s request for clarification regarding the use of factors to assign even the direct incremental overhead costs of LNP. Paragraph 74 of the LNP Cost Recovery Order states in pertinent part that “carriers may identify as carrier-specific costs directly related to providing long-term number portability only those incremental overheads that they can demonstrate they incurred specifically in the provision of long-term number portability.” This statement, when read in light of the Commission’s earlier statement in the same paragraph (*i.e.*, that “carriers may not use *general* overhead loading factors” — emphasis added), leaves some doubt as to whether the Commission will allow the use of factors to estimate any incremental overhead costs. CBT concurs with Ameritech that clarification is necessary to ensure that *general* overhead loading factors means only the factors used to assign what the Ameritech affidavit refers to as “truly common costs.”⁷

As Ameritech points out, there are many types of costs that are directly related to providing LNP but for which it would be extremely burdensome to conduct a study to

⁵ In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98, First Report and Order, FCC 96-325, released August 8, 1996, at para. 69 (the “Interconnection Order”).

⁶ SBC at p. 7; Sprint at pp. 3-4.

specifically identify. Instead, the standard method for determining such costs is to estimate them by using a factor. For example, maintenance costs will increase as a direct result of LNP. However, to attempt to identify each incremental increase in maintenance costs would be nearly impossible. Rather than incurring the time and expense of conducting a study to specifically identify these costs, a commonly accepted method is to apply a percentage based on the ratio of maintenance expense to equipment investment. Furthermore, as addressed in the Ameritech affidavit⁸, each company utilizes different methodologies for assigning direct costs. Methodologies which use such factors to assign overhead costs have been widely accepted as reasonable in similar situations. The Commission recognized this in its Local Competition Order.⁹ State commissions in their TELRIC proceedings have also allowed the use of factors to assign costs to UNEs and services.

B. The Commission's Jurisdiction Over Unbundled Access to the LNP Database Should be Clarified

CBT supports Ameritech's request for clarification as to the treatment of the LNP database.¹⁰ The Interconnection Order requires the LNP database to be offered as an UNE, which implies that it should be offered under contract via interconnection agreements. Since the review and approval of these interconnection agreements fall under the jurisdiction of the states, CBT agrees with Ameritech that the LNP Cost Recovery Order creates an inconsistency to the extent the Commission is asserting jurisdiction over all LNP costs. CBT supports Ameritech's request that the Commission

⁷ Ameritech Attachment A at pp. 6-7

⁸ Ameritech Attachment A at p. 17.

⁹ Ameritech at pp. 6-7; Sprint at p. 2.

¹⁰ Ameritech at pp. 11-12.

clarify whether access to the LNP database should be provided pursuant to contract under state jurisdiction or federal tariff.

C. End Office Query Call Set-up Charges Should be Recoverable

Bell Atlantic argues that carriers should be allowed to recover through the query charge the additional costs incurred to formulate a new call set-up message and to transport unqueried calls from the end office to the tandem.¹¹ CBT agrees that the additional costs a carrier incurs to handle unqueried calls delivered to its end offices are costs that would not be incurred but for LNP and, therefore, are properly attributable to LNP. Carriers should have the opportunity to recover these additional charges if they so choose.

D. The Full End-User Charge Should Apply to Resold Lines and UNEs

CBT urges the Commission to deny MCI's request that a different methodology be employed for determining the LNP costs in the end-user charge that flows through to carriers purchasing unbundled switching and to resellers.¹² The end-user charge is not a "service" which will be marketed, but rather is comparable to the subscriber line charge which is passed on to resellers in its entirety. Furthermore, under the rules established in the LNP Cost Recovery Order the end-user charge is based upon an incremental cost approach. As an end-user charge designed to recover all costs incurred directly in implementing LNP, there are no rational cost differences which would lead to differential prices between end-users, resellers or carriers purchasing unbundled elements.

¹¹ Bell Atlantic at p. 3.

¹² MCI Telecommunications Corporation at pp. 6-7.

E. Clarify that "Later" Entrants are New Entrants to the Industry

CBT concurs with WorldCom that the Commission should clarify that the language regarding retroactive assessment of NPAC non-recurring charges on "later entrants" refers to entrants new to the industry.¹³ Although CBT continues to believe, as expressed in previous comments,¹⁴ that it is appropriate for new entrants to contribute to the initial non-recurring costs of the NPAC, at a minimum, all existing carriers in the industry should equitably contribute to the NPAC costs.

III. CONCLUSION

CBT requests that the Commission respectfully consider these comments on the PFRs submitted in this proceeding. CBT urges the Commission to expeditiously take action to allow ILECs to assign a share of common overhead costs to their query services and to clarify that carriers can use factors to estimate the portion of overhead costs that are direct incremental costs of LNP. Furthermore, the Commission should act favorably on Ameritech's request for clarification regarding the Commission's jurisdiction over the LNP database, Bell Atlantic's request that carriers be allowed to recover the additional costs incurred in performing end office queries, and WorldCom's request for clarification that all existing carriers should contribute equitably to the NPAC costs. On the other hand, MCI's request that the end-user charge assessed to purchasers of unbundled switching and resellers be calculated using different methodologies should be denied.

¹³ WorldCom, Inc. at pp. 4-6.

Respectfully submitted,

FROST & JACOBS LLP

By 

Christopher J. Wilson
2500 PNC Center
201 East Fifth Street
Cincinnati, Ohio 45202
(513) 651-6758

Thomas E. Taylor
Sr Vice President & General Counsel
Cincinnati Bell Telephone Company
201 East Fourth Street
Cincinnati, Ohio 45201
(513) 397-1504

Attorneys for Cincinnati Bell
Telephone Company

Dated: September 3, 1998

¹⁴ See, CBT Reply Comments In the Matter of Telephone Number Portability, CC Docket No. 95-116, RM 8535, filed September 16, 1996, at p. 4.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that copies of Cincinnati Bell Telephone Company's Comments on the Petitions for Reconsideration of the Third Report and Order have been sent by first class United States Mail, postage prepaid, or by hand delivery, on September 3, 1998, to the persons listed on the attached service list.


Judy Piepmeier

* via hand delivery

Larry Peck
Ameritech
2000 West Ameritech Center Drive Room
4H86
Hoffman Estates IL 60196-1025

John Goodman
Bell Atlantic
1300 I Street NW
Washington DC 20005

Robert Southerland
BellSouth Corporation
1155 Peachtree Street NE Suite 1700
Atlanta GA 30309-3610

Laura Phillips
Dow Lohnes & Albertson
Comcast Cellular Communications Inc
1200 New Hampshire Avenue NW
Washington DC 20036

Cynthia Miller
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee FL 32399-0850

Glenn Manishin
Blumenfeld & Cohen
MCI Telecommunications Corporation
1615 M Street NW Suite 700
Washington DC 20036

Richard Askoff
National Exchange Carrier Association Inc
100 South Jefferson Road
Whippany NJ 07981

Jill Canfield
National Telephone Cooperative
Association
2626 Pennsylvania Avenue NW
Washington DC 20037

John Starrs
New York State Department of Public
Service
Three Empire State Plaza
Albany NY 12223-1350

Ron Comingdeer
Comingdeer & Lee
Oklahoma Rural Telephone Coalition
6011 N Robinson
Oklahoma City OK 73118

Barret Sheridan
Pennsylvania Office of Consumer
Advocates
555 Walnut Street 5th Floor Forum Place
Harrisburg PA 17101-1923

Hope Thurrott
SBC Communications Inc
One Bell Plaza Room 3023
Dallas Texas 75202

Joel Shifman
State of Maine Public Utilities
Commission
242 State Street 18 State House Station
Augusta MA 04333-0018

John Hunter
United States Telephone Association
1401 H Street NW Suite 600
Washington DC 20003

Richard Whitt
WorldCom, Inc
1120 Connecticut Avenue NW Suite 400
Washington DC 20036

Katherine Harris
Wiley Rein & Felding
Personal Communications Industry
Association
1776 K Street NW
Washington DC 20006

Jay Keithley
Sprint Local Telephone Companies
1850 M Street NW 11th Floor
Washington DC 20036-5807

Don Richards
McWhorter, Cobb & Johnson
Texas Statewide Telephone Coop. Inc
1722 Broadway
Lubbock TX 79401

Kathryn Marie Krause
US West Inc
1020 19th Street NW Suite 700
Washington DC 20036